

REMARKS

With entry of this amendment, 7 claims remain for consideration, namely claims 1 through 3, and 5 through 9. Claims 1, 8, and 9 are the only independent claims. Claims 2, 3, and 5 through 7 depend directly or indirectly from claim 1.

The Examiner objected to the drawings under 37 CFR 1.83(a). The Examiner asserts that the sponge is not shown in the drawings. On page 11, lines 10-11 the specification calls for "...sponge material, such as an open cell polymeric foam 32...". The numeral 32 is shown within compartment 22 in Figure 3.

The Examiner rejected claims 1-9 under 35 U.S.C. 112, first paragraph as containing subject matter not described in the specification. Reference number 22 has been added to Figure 1.

The Examiner rejected claims 1 and 3 under 35 U.S.C. 102(b) as being anticipated by Gutnick. Amended claim 1 now includes the limitations of claim 4, as will be discussed further below, which the Examiner indicated was allowable.

The Examiner rejected claims 2 and 5 under 35 U.S.C. 103(a) as being unpatentable over Gutnick. The Examiner asserts that it would be obvious to a practitioner to make the fluid red. It is respectfully submitted that this is not so. There is no teaching in Gutnick to make the liquid red, so as to simulate human blood. Gutnick discloses a medicament being released in from the burstable compartment. Applicant's device is not a medical device. It is more of an entertainment device. Examiner asserts that the color is not critical. On the contrary, in applicant's invention, the color is absolutely critical to the proper functioning of the device.


The Examiner rejected claim 7 under 35 U.S.C. 103(a) as being unpatentable over Gutnick in view of Reddy. Claim 7 is now believed to patentably define over the art of record, as it is dependent on amended claim 1.

The Examiner indicated that claims 4 and 6 would be allowable if rewritten in independent form. The limitations of claim 4 have been incorporated into amended claim 1. The sheath is defined as having a longitudinal axis, the flexible end wall is convex and disposed at an angle to the axis and the burstable compartment is described as abutting the flexible end wall. Claim 6 is dependent on the amended claim 1.

The Examiner allowed claims 8 and 9.

Accordingly, it is respectfully submitted that this application is in condition to be passed to issue. If such is not the case, the Examiner is respectfully requested to call the undersigned agent at the number given below in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,


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